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A Member of the Firm of  
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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----x  
DAWN BARKER,

Plaintiffs, ANSWER

- against -

08 CIV. 4517(JSR) (JCF)

BRENDA A. ITHIER, PV HOLDING CORP.  
and AVIS BUDGET GROUP, INC.,

Defendants.

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Defendants PV Holding Corp. and Avis Budget Group, Inc., by their attorneys, REARDON & SCLAFANI, P.C., as and for their answer to the plaintiff's complaint, allege, upon information and belief, as follows:

FIRST: Denies knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered "1", "10", "15", "19", "21", "22", "24", "27", "32", "36", "46" and "50".

SECOND: Denies each and every allegation contained in paragraph(s) numbered "2", "4", "5", "7", "9", "11", "12", "13", "14", "16", "17", "18", "20", "23", "25", "26", "28", "29", "30", "31", "33", "34", "35", "37", "38", "39", "40", "41", "42", "43", "44", "45", "48", "51", "52", "53" and "55".

THIRD: Denies each and every allegation contained in paragraph(s) numbered "47" and "54" and refers all questions of law to the Honorable Trial Court.

FOURTH: Answering paragraph(s) numbered "49", defendant(s) repeats, reiterates and re-alleges each and every admission and denial heretofore made with the same force and effect as though more fully set forth at length herein.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

FIFTH: That plaintiff's action as against defendants PV Holding Corp. and Avis Budget Group, Inc. is pre-empted and barred pursuant to subchapter I of Chapter 301 of Title 49, United States Code §30106.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

SIXTH: That plaintiff(s) complaint fails to state a cause of action as against the answering defendant(s) upon which relief can be granted.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

SEVENTH: That the Court lacks jurisdiction over the answering defendant(s) upon the ground of insufficiency of service of process.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

EIGHTH: That if the plaintiff(s) sustained any injury or damages, said injuries or damages were caused or contributed to by the negligence, culpable conduct, assumption of risk or fault of

the negligence, culpable conduct, assumption of risk or fault of the plaintiff(s) and were not caused or contributed to by the negligence, fault or want of care on the part of the answering defendant(s), or were caused by persons or parties for whose acts or omissions or the result of an emergency for which this answering defendant(s) is not responsible or liable.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

NINTH: That the plaintiff(s) vehicle was equipped with seat belts; that the plaintiff(s) failed to wear or properly fasten seat belts at the time of the occurrence; that some or all of plaintiff(s) injuries would not have been incurred or would have been incurred to a lesser extent or degree had seat belts been worn or worn properly, and that the failure to wear or properly fasten seat belts was the proximate cause of all or some of the injuries claimed by the plaintiff(s).

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

TENTH: That this action is barred as to plaintiff(s) by Article 51, Section 5102(d) of the Insurance Law of the State of New York.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

ELEVENTH: Plaintiff(s) recovery, if any, is subject to and limited by CPLR 4545.

WHEREFORE, defendant(s) demand(s) judgment dismissing the complaint of the plaintiff(s) herein, together with the costs,

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disbursements and attorneys' fees of this action.

Dated: Tarrytown, New York  
May 21, 2008

Yours, etc.

REARDON & SCLAFANI, P.C.  
Attorneys for Defendants  
OFFICE & P.O. ADDRESS  
220 White Plains Road, Suite 235  
Tarrytown, New York 10591  
(914) 366-0201

By: 

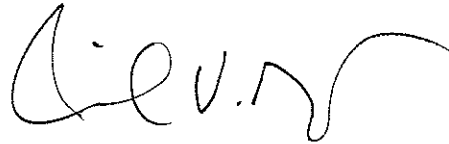
MICHAEL V. SCLAFANI (MS 9120)

TO: Greenstein & Milbauer, LLP  
Attorneys for Plaintiff  
1825 Park Avenue, 9th Floor  
New York, New York 10035

CERTIFICATE OF SERVICE

The undersigned attorney hereby certifies that on May 21, 2008, he caused to be served a true and correct copy of the within ANSWER by depositing the same in the United States mail, first-class, postage pre-paid, addressed to:

TO: Greenstein & Milbauer, LLP  
Attorneys for Plaintiff  
1825 Park Avenue, 9th Floor  
New York, New York 10035

A handwritten signature in black ink, appearing to read 'M. V. Sclafani', is written above a horizontal line.

MICHAEL V. SCLAFANI (MS 9120)